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health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on August 11, 1994.

[59 FR 42497, Aug. 18, 1994]

§ 1952.364 [Reserved]

§ 1952.365 Level of Federal enforcement.

(a) Pursuant to §§ 1902.20(b)(1)(iii) and 1954.3 of this chapter, under which an operational status agreement has been entered into between OSHA and New Mexico, effective October 5, 1981, and based on a determination that New Mexico is operational in issues covered by the New Mexico occupational health and safety plan, discretionary Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR parts 1910, 1926 and 1928 except as provided in this section. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to:

(1) Complaints filed with the U.S. Department of Labor alleging discrimination under section 11(c) of the Act (29 U.S.C. 660(c));

(2) Enforcement with respect to private sector maritime employment including 29 CFR parts 1915, 1917, 1918, 1919 (shipyard employment; marine terminals; longshoring and gear certification), and general industry and construction standards (29 CFR parts 1910 and 1926) appropriate to hazards found in these employments, which issues have been specifically excluded from coverage under the State plan;

(3) Enforcement in situations where the State is refused and is unable to obtain a warrant or enforce its right of entry;

(4) Enforcement of new Federal standards until the State adopts a comparable standard;

(5) Enforcement of unique and complex standards as determined by the Assistant Secretary;

(6) Enforcement in situations when the State is temporarily unable to exercise its enforcement authority fully or effectively;

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(7) Enforcement of occupational safety and health standards at all Federal and private sector establishments on military facilities and bases, including but not limited to Kirkland Air Force Base, Fort Bliss Military Reservation, White Sands Missile Range Military Reservation, Holloman Air Force Base, Cannon Air Force Base, Fort Wingate Military Reservation, Fort Bayard Veterans' Hospital, Albuquerque Veterans' Hospital, Santa Fe National Cemetery;

(8) Enforcement of occupational safety and health standards, to the extent permitted by applicable law, over tribal or private sector employment within any Indian reservation and lands under the control of a tribal government;

(9) Enforcement of occupational safety and health standards with regard to Federal government employers and employees; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; and

(10) Investigations and inspections for the purpose of the evaluation of the New Mexico plan under sections 18(e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

(b) The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in New Mexico.

[62 FR 49911, Sept. 24, 1997, as amended at 65 FR 36629, June 9, 2000]

§ 1952.366 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3700, Washington, D.C. 20210;